

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

11 CRIMINAL APPLICATION NO. 3714 OF 2016

SHRIRAM @ RAMA S/O NAVNATH

VERSUS

THE STATE OF MAHARASHTRA

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Mr. N.S.Ghanekar, Advocate for Applicant.

Mr. S.D.Ghayal, A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 24th AUGUST, 2016

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PER COURT :

1. Applicant/accused, who is husband of deceased Ashwini, in Crime No. 28/2016 registered at Neknoor police station, Dist. Beed for the offences punishable u/ss 302,304-B,498-A read with 34 of the Indian Penal Code by this application is seeking bail after filing of the charge sheet.

2. Heard learned counsel for the applicant. He argued that in past, deceased Ashwini was treated for Hysteria and Anxiety Neurosis as indoor patient in Barkul hospital, Beed. Subsequently, she consumed poison on 13/02/2016. She died because of cardiac arrest on 15/02/2016. Learned

counsel, therefore, submits that *prima facie* no offence punishable u/s 302 of the Indian Penal Code is made out.

3. As against this, learned A.P.P. submits that pre-event and post-event conduct of the present applicant is material. Present applicant had not informed the parents of Ashwini till her death. Learned A.P.P. argues that statement of witnesses goes to show that there was demand for money from Ashwini and on earlier occasion, attempt to kill her was made by the present applicant.

4. Perused charge sheet. The crime in question is registered on the basis of the report lodged by Anil Subhash Karande – father of deceased Ashwini on 16/02/2016. He averred that after her marriage, Ashwini used to stay with her in-laws at Morgaon and the applicant used to meet her by visiting Morgaon from Pune. It is further averred that the applicant and his parents were demanding ₹ 2 Lakh from Ashwini for purchasing vehicle and on account of non fulfillment of that demand, they used to subject her to cruelty. It is further averred that prior to 4 months, present applicant and his sister attempted to commit murder of Ashwini by constricting her neck. She was required to be treated at Barkul hospital, Beed. It is further averred that on 15/02/2016, present applicant informed the informant that Ashwini consumed poison and when the informant and others reached Beed, they came to know that Ashwini died.

5. Case of the prosecution, so far as the offence

punishable u/s 302 of the Indian Penal Code is concerned, is based on circumstantial evidence. The only circumstance which can be noted is non intimation of the fact of suffering poisoning by Ashwini to her parents.

6. It is seen from the documents placed on record that on 24/11/2014 Ashwini was admitted to Barkul hospital, Beed and she was diagnosed as patient of Hysteria. Thereafter it is seen that Ashwini was admitted to the same hospital on 05/12/2015. This admission of Ashwini to Barkul hospital is in tune with the averments in the F.I.R. that on that day the applicant had attempted to commit her murder by constricting her neck. On this back-drop, bed head ticket of Ashwini shows that she was admitted to Barkul hospital on 05/12/2015 as patient of Anxiety Neurosis.

7. Now comes the incident of 13/02/2015. According to the prosecution case, poison was forcefully administered to Ashwini. She was admitted to the civil hospital, Beed on 13/02/2016. Her bed head ticket is placed on record. This document maintained in official course of business by the Govt. hospital shows that Ashwini died because of ingestion of rat killing powder. It implies consumption of rat killing powder by Ashwini. At the time of her admission, she is reported to be conscious and oriented by the Medical Officer. Subsequently, on the next day also Ashwini is reported to be conscious and oriented.

8. It is a matter of common knowledge that in

medico legal cases, Govt. hospital reports the admission of such patients to the police out-post in order to take further steps of legal formalities. In the case in hand, it appears that no such intimation of admission of patient in medico legal case appears to have been given to police by the civil hospital till the death of Ashwini. Medical case papers reveal her suicidal death.

9. *Prima facie*, it is seen that there are 2 versions of the incident in question, which are resulted in death of Ashwini. This will have to be examined in the light of her previous history of suffering from Hysteria as well as Anxiety Neurosis. Considering this nature of evidence after filing of the charge sheet, applicant's further detention is not warranted. Hence, the following order.

(i) The application is allowed.

(ii) Applicant Shriram @ Rama s/o Navnath Bhad in Crime No. 28/2016 registered at Neknoor police station, Dist. Beed for the offences punishable u/ss 302,304-B,498-A read with 34 of the Indian Penal Code be released on bail on executing P.R. Bond of ₹ 30,000/- [Rupees Thirty Thousand] and on furnishing surety in the like amount.

(iii) As a condition of this Order, the applicant shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade

them from disclosing the same either to the police or the Court.

(iv) The applicant shall not tamper the evidence of the prosecution.

(v) The applicant shall co-operate the trial Court in expeditious disposal of the trial against him.

[A.M.BADAR, J.]